

E-FILED 5/23/2008

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES *ex rel.* DONNA M.
McLEAN and THE STATE OF CALIFORNIA
ex rel DONNA M. McLEAN,

No. C05-01962 HRL

**ORDER DENYING DEFENDANTS'
MOTION FOR AN ORDER
SHORTENING TIME**

Plaintiffs,

v.

THE COUNTY OF SANTA CLARA, et al.,

[Re: Docket No. 165]

Defendants.

Defendants move for an order shortening time on their motion to compel expert disclosure (Docket # 168). They express concern that, under a normal 35-day calendar, their motion will not be heard until after the June 16, 2008 expert discovery cutoff. No response has been received from relator, and the time for filing one has passed.

Upon consideration of the papers filed, the motion for an order shortening time is denied. The court's Civil Local Rules permit motions to compel discovery to be filed up to seven court days after the pertinent cutoff date. *See* Civ. L.R. 26-2. Where, as here, a timely motion to compel has been filed, the existence of a discovery cutoff does not divest the court of the power to order the discovery in dispute to go forward, assuming the court concludes it is proper.

Accordingly, defendants' motion to compel will be set for hearing on **June 24, 2008**,

1 **10:00 a.m.** in Courtroom 2. Briefing shall proceed in accordance with a normal 35-day
2 calendar under the court's Civil Local Rules. Defendants' request to extend (or re-open) expert
3 discovery as may be appropriate will be addressed when the court deals with the merits of their
4 motion to compel.

5 SO ORDERED.

6 Dated: May 23, 2008

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8 HOWARD R. LLOYD
9 UNITED STATES MAGISTRATE JUDGE
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